

MAY 05 2003
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FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 55.00)

Complete if Known

Application Number	10/005,858
Filing Date	12/4/2001
First Named Inventor	Keith D. Allen
Examiner Name	Celine X. Qian
Art Unit	1636
Attorney Docket No.	R-690

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METHOD OF PAYMENT (check all that apply)

Check Credit card Money Order Other None

Deposit Account:

Deposit Account Number
50-1271

Depotagen, Inc.

The Commissioner is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) during the pendency of this application
 Charge fee(s) indicated below, except for the filing fee
 to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1001	750	2001	375	Utility filing fee	
1002	330	2002	165	Design filing fee	
1003	520	2003	260	Plant filing fee	
1004	750	2004	375	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1) (\$)				55.00	

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Independent Claims	Multiple Dependent	Extra Claims	Fee from below	Fee Paid
			-20**	=	
			- 3**	=	

Large Entity	Small Entity	Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1202	18	2202	9	Claims in excess of 20	
1201	84	2201	42	Independent claims in excess of 3	
1203	280	2203	140	Multiple dependent claim, if not paid	
1204	84	2204	42	** Reissue independent claims over original patent	
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent	
SUBTOTAL (2) (\$)				55.00	

**or number previously paid, if greater. For Reissues, see above

3. ADDITIONAL FEES

Large Entity Small Entity

Fee Code (\$)	Fee Code (\$)	Fee Description	Fee Paid
1051	130	2051 65 Surcharge - late filing fee or oath	
1052	50	2052 25 Surcharge - late provisional filing fee or cover sheet	
1053	130	1053 130 Non-English specification	
1812	2,520	1812 2,520 For filing a request for ex parte reexamination	
1804	920*	1804 920* Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805 1,840* Requesting publication of SIR after Examiner action	
1251	110	2251 55 Extension for reply within first month	
1252	410	2252 205 Extension for reply within second month	
1253	930	2253 465 Extension for reply within third month	
1254	1,450	2254 725 Extension for reply within fourth month	
1255	1,970	2255 985 Extension for reply within fifth month	
1401	320	2401 160 Notice of Appeal	
1402	320	2402 160 Filing a brief in support of an appeal	
1403	280	2403 140 Request for oral hearing	
1451	1,510	1451 1,510 Petition to institute a public use proceeding	
1452	110	2452 55 Petition to revive - unavoidable	
1453	1,300	2453 650 Petition to revive - unintentional	
1501	1,300	2501 650 Utility issue fee (or reissue)	
1502	470	2502 235 Design issue fee	
1503	630	2503 315 Plant issue fee	
1460	130	1460 130 Petitions to the Commissioner	
1807	50	1807 50 Processing fee under 37 CFR 1.17(q)	
1806	180	1806 180 Submission of Information Disclosure Stmt	
8021	40	8021 40 Recording each patent assignment per property (times number of properties)	
1809	750	2809 375 Filing a submission after final rejection (37 CFR 1.129(a))	
1810	750	2810 375 For each additional invention to be examined (37 CFR 1.129(b))	
1801	750	2801 375 Request for Continued Examination (RCE)	
1802	900	1802 900 Request for expedited examination of a design application	

Other fee (specify) _____

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 55.00

(Complete if applicable)

SUBMITTED BY				
Name (Print/Type)	Nicole A. Verona	Registration No. (Attorney/Agent)	47,153	Telephone 650-569-5204
Signature	Nicole A. Verona		Date	4/27/03

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/005,858	12/04/2001	Keith D. Allen	R-690	2822

7590
DELTAGEN, INC.
740 Bay Road
Redwood City, CA 94063



EXAMINER	
QIAN, CELINE X	
ART UNIT	PAPER NUMBER

1636

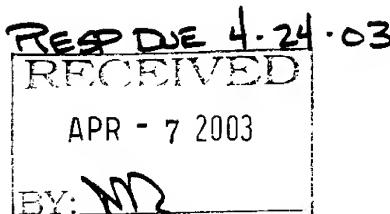
DATE MAILED: 03/25/2003

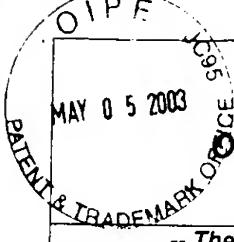
Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

MAY 05 2003

Application No.	10/005,858	Applicant(s)	ALLEN, KEITH D.
Examiner	Celine X Qian	Art Unit	1636

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on _____.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-21 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) _____ is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) 1-21 are subject to restriction and/or election requirement.

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Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 - a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) Interview Summary (PTO-413) Paper No(s) _____.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: _____

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Application/Control Number: 10/005,858
Art Unit: 1636

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DETAILED ACTION

Claims 1-21 are pending in the application.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-9 and 14-17, drawn to a NTTP1 gene targeting construct, a method of making said construct, a cell comprising a disruption of a NTTP1 gene, a non-human transgenic animal comprising a disruption of a NTTP1 gene, and a method of making said transgenic mouse, classified in class 536, subclass 23.1, class 435, 325, class 800, subclass 18.
- II. Claims 10 and 18, drawn to a method of identifying agents that modulates the expression or function or a phenotype associated with the disruption of a NTTP1 gene by using a transgenic non-human animal comprising a disruption of a NTTP1 gene, classified in class 800, subclass 3.
- III. Claims 11 and 12, drawn to a method of identifying agents that modulates the expression or function or a phenotype associated with the disruption of a NTTP1 gene by using a cell comprising a disruption of a NTTP1 gene, classified in class 435, subclass 325.
- IV. Claim 13, drawn to an agent that modulates the expression or function of a NTTP1 gene, unclassifiable.
- V. Claim 19, drawn to an agent that ameliorates a phenotype associated with a disruption of a NTTP1 gene, unclassifiable.

VI. Claim 20, drawn to an agonist or antagonist of NTTP1, classified in class 504, subclass 103.

VII. Claim 21, drawn to an electronic database comprising the phenotypic data of a NTTP1 knockout mouse, classified in class 707, subclass 100.

The inventions are distinct, each from the other for following reasons.

The inventions of Groups I and IV-VII are patentably distinct because the inventions are drawn to materially distinct compositions that are not related. The transgenic animal, the agents, the agonist and the database are biologically, chemically and functionally distinct from each other. Therefore, the inventions of Groups I and IV-VII are patentably distinct.

The inventions of Groups II and III are patentably distinct because they are drawn to methods that require different starting materials and modes of operation. Each method has a distinct purpose and further comprising distinct method steps. Therefore, the inventions of Groups II and II are patentably distinct.

The inventions of Groups I, IV-VII are patentably distinct from the inventions of Groups II and III because the inventions are drawn to compositions and method that are not directly related. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions have different modes of operation, different function, and different effects each from the other. The products of Groups I, VI-VII can be used in methods that require different technical considerations and materially different reagents from the method of Groups II and III. The product of Groups IV and V can be made by methods other than the methods of Groups II and III. For example, the

transgenic animals of Group I may be used to produce antibodies. Further, the method of Group III may be practiced with a wild type animal, and the agent of Groups IV and V can be identified by using a wild type animal. Therefore, the inventions of Groups I, VI-VII are patentably distinct from the inventions of Groups II and III.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper. A search of the subject matter of one invention would not be co-extensive with a search of the other invention, and therefore the search would be burdensome. Each invention is capable of supporting a separate patent.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement may be traversed (37 CFR 1.143).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Celine X Qian whose telephone number is 703-306-0283. The examiner can normally be reached on 9:00-5:30 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Remy Yucel Ph.D. can be reached on 703-305-1998. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3014 for regular communications and 703-305-3014 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0196.

Celine Qian, Ph.D.
March 21, 2003

Gerald G. Hettler
PATENT EXAMINER
Gerald G. Hettler GS
A. 4.1636